Ex. File 14-96.

G. R. S. [X-5]

Previous references.

S. R. 6996. 1897-98. ~~1917~~.

(S. R.)

File No. 90.

Serial Nos. 1-10.

Later references.

S. R. 91797.

(41)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-10

de ~~Part~~ B for oct, 1900

SUBJECT.

Illicit tapping of Toddy-yielding trees.

Indexed

W D 88—GPB—50,000—24-7-16

Please see Watt Lacy's query dated 25th December 1897 below.

Section 19 of the Madras Abkari Act provides for the levy of tax for tapping unlicensed trees.

Section 55 (d) prescribes the punishment for illegal tapping of any toddy yielding tree.

~~There is nothing in the Madras Rules about this~~

Nothing is mentioned in the Madras Rules about the recovery of tree tax for illicit tapping.

PD
4/1/98

2

Encls.

(1) Is there anything in the Regl.n or Rules requiring that fines imposed by magts. for illicit tapping shall bear any relation to ~~the~~ tree-tax on trees so tapped? I don't think there is any.

None 5/1/90.

(2) Condition 10 of the Farmer's Agreement says that the Govt. is competent to impose a fine not exceeding Rs 50 for every breach of the terms & conditions by a farmer. ~~In this~~ Para 2 of the proposed circular memorandum requires the Govt. to order the tree-tax to be recovered on trees illicitly tapped as a fine or penalty. This seems to be inconsistent with condition 10. Is there anything in the Madras Rules about this point?

Note says there is none.

5/1/90.

25/1/97

Subs to Secy.

The object of the proposed circular memorandum is not very clear to me.

5/1/90.

A fine not exceeding Rs 50 is permissible. but under what law or rule or condition is that tax to be levied either under a Magistrate or under a Deputy Commr.

(49)

No. 4460
No. 8x 235

1897

From

The Excise Commissioner in Mysore

To

The Secretary to Govt. of Mysore.
General and Revenue Depts.

Dated 18th
Despatched 19 } December 1897
Received

General No. 6184
No. 214

Enclosure No. 1

In reply to

SUBJECT.

Submits for approval copy of the Excise Commissioner's Circular memorandum containing instructions as to the course to be adopted in regard to the Toddy-yielding trees discovered to have been illicitly tapped.

References (to be entered only in the Dewan's Office.)

RW 20/12/97

Read. 4-30 P.M. 21/12/97

No: 5184/214 Enc: 1

Excise Commissioner's Office

Bangalore, 18th December 1897.
19

From

The Excise Commissioner
in Mysore

To

The Secretary to the Government of Mysore
General and Revenue Departments

Sir,

I have the honor to submit herewith for approval copy of my circular memorandum No: 5098-105/243, dated 16th instant, containing instructions as to the course to be adopted in regard to the Toddy-yielding trees discovered to have been illicitly tapped.

I have the honor to be,
Sir,
your most obedient servant
S. Venkata Rowgiyer
for Excise Commissioner
in Mysore

Encl to Excise Commissioner's Office
Bangalore Dated 16th Decr. 1897

No: 5098-105
243

Circular Memorandum.

The following instructions are issued in regard to the Toddy-yielding trees discovered to have been illicitly tapped:—

(1) If the Magistrates before whom cases of illicit tapping are brought up for trial, direct in the order at the end of their judgement that for each tree proved to have been illicitly tapped, the Tree-Tax prescribed by Government shall be recovered from the offender as a fine, and that when recovered it shall be credited to Excise Revenue, the tree-tax thus recovered and credited, together with the trees to which it relates, shall be separately exhibited in Excise Registers, with necessary remarks. If, after the disposal of the case, the offender applies to the Excise Supervisor to mark and license the above trees to enable him to

to tap the same, the Supervisor shall do so on condition of the applicant paying additional tree-tax at the prescribed rate.-

(2) But if such magistrates omit to make any orders about the tree-tax to be levied on the trees proved to have been illicitly tapped, the Excise Supervisor concerned shall report the fact to the Deputy Commissioner of the District, who will thereupon departmentally order the tree-tax to be recovered on the said trees as a fine or* penalty. The amount of such tax, together with the trees to which it relates, shall be separately shown in Excise Registers as stated in clause (1) above. Should the offender apply to the Excise Supervisor to mark and license the said trees to enable him to tap them, the Supervisor shall do so on condition of the applicant

* Vide Condition 10 in the Form of Toddy Vend Farmers agreement appended to Govt Proc: No: C 613-22 Excise, dated 2nd April 1897.

applicant paying additional tree-
tax at the prescribed rate. -

(Signed) P.N. Purnaiya,
Excise Commissioner
in Mysore.

"Copy"

M Krishnaiya

Excise Commissioner
in Mysore.

R.S.

No 6364 / 232 Sec 2 — 17-1-98

SL 2

41 (50)

To The Excise Commr in Mysore,

With reference to his letter No 5-1014/214 dt 10-12-97 submitting for the approval of Govt draft of a circular memorandum containing instructions in the matter of toddy yielding trees discovered to have been illicitly tapped, has the honor to ~~[illegible]~~ ~~[illegible]~~ law a rule a condition to allow of ~~[illegible]~~ (three trees) being levied under a magisterial or under a departmental order. The Excise Commr is requested to be so good as to submit information on this point.

State that, while a fine not exceeding Rs 50 is permissible under condition 10 of the Farmer's Agreement, there seems to be no

17/1/98

for Secy

6364 / Sec 232 — 17th Jan 1898

17

513 / 43

Gen 30.

6465
8x3Jo1

1898

From

The Excise Commissioner
in Mysore.

55

To

The ~~Chief~~ Secretary to the Government
~~Dewan~~ of Mysore.
General and Revenue Departments

Dated 3rd.
Despatched 7 } March 1898
Received

Enclosure No. 1

General No. 6592
No. 299

58

In reply to Secretary's docket No. 6364 / 8x232
dated 17th ~~instant~~ February

SUBJECT.

States that under ~~section~~ 545 of the Code of Criminal Procedure, Magistrates may, when passing judgment, award compensation out of the fine imposed on the offender for the loss sustained by the Excise Department, on account of the trees proved to have been illicitly tapped, and submits a revised circular memorandum.

Sealed & 2d/c.

The circular memorandum of 16th Dec 1897 (Docket No 40) referred to the Secy - Information near enough called for. The Excise Commr has now sent a revised memorandum - for Reasons & the main the necessary Notification Proposed to be issued (Paras 2 & 3) do not seem to be objected -

16/3/98

12/3/98

12/3/98

The Secy. Flr: Income may be approved except clauses ~~paragraph~~ 2 & 3 which shd. be revised as proposed and returned

12-3-98

Submitted with ref to the Secy's order on Desire No 40 -
16/3/98

16/3/98

8.3.98

References (to be entered only in the Dewan's Office.)

Excise Commissioner's Office
Bangalore 3rd March 1898

No. 6592 / 297 Ex. 1

From The Excise Commissioner
in Mysore

To The Secretary to the Government of Mysore
General and Revenue Departments

Sir,

In reply to your docket No. (41) 6364 / Ex 232, dated 17th instant, I have the honor to state that under section 545 of the Code of Criminal Procedure, Magistrates may, when passing judgment, award compensation out of the fine imposed on the offender, for the loss sustained by the Excise Department on account of the trees proved to have been illicitly tapped. This compensation amount can only be shown in the Excise accounts under "fines and forfeitures". But for the trees so illicitly tapped unless tree-tax is levied and credited, there will be discrepancy in the accounts between the number of trees tapped and the amount shown as tree-tax. Therefore tree-tax will have to be collected for the trees so illicitly tapped. Where the offender consents to continue tapping those trees and pays the tax due on them, this amount will go for tree-tax. But where he may not do it, no amount will be available to show as tax on the trees tapped. There is no reason why this amount should not be departmentally collected. The Deputy Commissioner can deal with the case under

under condition 37 of Toddy License A (clause 10 of the form of agreement of this year 1897-98), the obligation to obtain licenses having been laid down in condition 3 (1) (a) of toddy license, and recover the tree-tax as fine and show as tree-tax in the accounts. Condition 38 of the same makes this permissible in addition to prosecution. If, however, the above method is open to the objection that a man after being prosecuted before a Magistrate cannot again be punished for breach of condition of the agreement, the Magistrates may be required to send to the Revenue Authority, namely the Amildar of the Taluk concerned, list of trees so proved to be illicitly tapped, and the Amildar may proceed to recover the tree-tax as a revenue demand. As the man will not escape from tree-tax even after undergoing a prosecution before a Magistrate, the temptation to tap trees illicitly will be speedily put down. To make the point clearer, I beg to submit herewith for approval a revised circular memo on the subject.

I have the honor to be,
sir,
your most obedient servant
[illegible]
for Excise Commissioner
in Mysore

Encl to 513 (48 a) 55 a

№ 5098-105
243

Excise Commissioner's Office
Bangalore Dated 16th/20th December 1897

Draft Circular Memorandum.

The following instructions are issued in regard to the Toddy-yielding trees discovered to have been illicitly tapped:—

(1) If the magistrates before whom cases of illicit tapping are brought up for trial, direct in their judgment under section 545 of the Code of Criminal Procedure, that the whole or any part of the fine realized should be paid to the Excise Department as compensation on account of tree-tax for the trees proved to have been illicitly tapped, such amount should be credited under "Excise — Miscellaneous, — Fines and Forfeitures".

(2) When illicit tapping is detected, the offender concerned should not be prevented from continuing to tap the trees till the magistrate disposes of the case, — because the incisions will have dried up and the trees have become useless for tapping again; but the offender should be permitted to continue to tap the same, and required to pay the prescribed tree-tax for the trees. By this means the illicit tapper will be made to feel the serious consequences of illicit tapping; for he has not only to pay the fine for his offence, but also to pay the tree-tax at the prescribed rate for the trees illicitly tapped.

(3) But if the case is not one fit for trial before the

the magistrate, the Excise supervisor concerned shall report the fact to the Deputy Commissioner of the District, who will thereupon dispose of it departmentally as a breach of the conditions of License or Agreement*. In addition to such fine as may be imposed upon the offender departmentally, the offender should be required to pay tree-tax at the prescribed rate for the trees illicitly tapped.

2. The word "village" referred to in T. T. Nos 1 and 3 and other forms, is the "Asali" or principal village. Should there be any "Daklys" or hamlets belonging to such villages, the name of each hamlet should be entered in red ink immediately above the particulars which relate to such hamlet.

*Vide condition 10 in the form of Toddy Vend Farmer's agreement appended to Government Proceedings No. C. 618-22, Ex dated 2nd April 1897, and condition 37 of Toddy License A.

(Signed)
P. N. Purnaiya,
Excise Commissioner
in Mysore.

"Copy"

for Excise Commissioner
in Mysore

Draft ash 60

Read:— (59) 514

Letter no. 6592/299 & 3rd

March/98 from the Excise Commr. in Mysore, submitting for the approval of Govt. a revised circular memorandum containing instructions as to the course to be adopted in regard to the toddy yielding trees discovered to have been illicitly tapped, and stating that in the absence of such instructions certain discrepancy in the accounts cannot be reconciled.

No 9017 Ex 365 — 22/3/98

Order thereon:—

The circular memorandum ~~sent~~ to be issued proposed by the Excise Commr. ~~in the above~~ is approved with the exception of the clauses (2) & (3) of para 1, which should be revised ~~& submitted for orders of Govt.~~ in the light of the following observations.

~~made~~

Read 19/3.

~~made~~:—

(1) As regards the instructions contained in clause (2) para 1 of the circular memorandum it is observed that an offender should not be ~~continued to~~ permitted to continue the perpetration of the offence. The fine should be held ~~can be taken~~ to include the tree tax which cannot be separately levied in addition to it as there is no provision for doing so.

(2) In regard to the departmental punishment referred to in the concluding portion of clause (3), para 1, of the memorandum, it is not clear how the tree tax can be separately levied ~~leviable~~ in addition to any fine departmentally imposed. In awarding the fine however ~~tax~~, the loss to Govt. in the way of tree tax can be taken into account by the Dy. Commr. If such fine is considered an inadequate punishment, a prosecution is also permissible under the rules in force.

The Excise Commr is ~~informed~~ ~~requested~~ ~~for submitted for the information~~ ~~for a copy~~ of the instructions proposed to be issued.

Secretary

17/3/98

16/3/98.

Recd. and in accordance with the foregoing Govt. in accord and with the above observations

18/3/98

to The Excise Commr in Mysore

Excise Commissioner's Office

No 1114/56 Com: 2

Bangalore, dated 17th July 1898.

(86) 8-8-98

From

The Excise Commissioner in Mysore

To

The Secretary to the Government of Mysore General + Revenue Department.

Sir,

In acknowledging the receipt of Government Proceedings No: 9017/Ex: 365, dated 22nd March 1898, I have the honor to forward herewith, copy of the Madras Revenue Board's Proceedings Nos: 102, dated 17th February 1892, and 200, dated 12th May 1893, containing instructions as to the course to be adopted in regard to the toddy-yielding trees discovered to have been illicitly tapped, and to submit herewith for approval a revised circular Memorandum prepared on the lines of the above Proceedings.

59

I have the honor to be,
Sir,
Your Most obedient Servant,
P. N. [illegible]
Excise Commissioner
& in Mysore

Ex. 61.

Gen. 30.]

REVENUE DEPARTMENT 1008 AUG. 11 1898 OFFICE

1897-98

From

The Excise Commissioner in Mysore.

86

To

The ~~Chief~~ Secretary to the Government ~~Dewan~~ of Mysore. General & Revenue Departments

Dated 14th July 1898.

Despatched 8-8-98

Received

Enclosure No. 2

General No. 1114

No. 56

In reply to Government Proceedings No: 9017/Ex:365, dated 22nd March 1898.

59

SUBJECT.

Forwards copy of the Madras Revenue Board's Proceedings containing instructions as to the course to be adopted in regard to the toddy-yielding trees discovered to have been illicitly tapped, and submits for approval a revised circular Memorandum prepared on the lines of the above Proceedings.

I would ask the Chief Court to favour Government with their opinion whether the rights may be distributed in the manner proposed in para 2 of the draft. Send the enclosures in duplicate. Telegram 17-8-98. Personal & telegraphic reply

Drafted AB 19/8/98

Excise 16/8/98

References (to be entered only in the Dewan's Office.)

15/8/98

AW 16/8/98

Submitted for orders as to whether the circular may be approved.

AB 16/8/98

N 16/8/98

Draft as per order

Sub

To

The Registrar
Chief Court
Mysore
Bangalore

No 1438 & 23/8/98.
69

(4)

(87)

Sir,

In forwarding herewith copy of letter no 1114/56 of 17th July 1898 from the Excise Commr in Mysore, submitting for approval of Govt a draft circular memorandum prepared on the lines of the instruction issued in Madras as to the course to be adopted in regard to the toddy yielding trees discovered to have been illicitly tapped, I ~~am directed~~ have the honor to request that you will be so good as to move the Ch: Court to favor Government with their opinion ~~of the Chief Court~~ as to whether magistrates may be instructed in the manner proposed in para 2 of the draft memorandum.

Copies of the marginally noted proceedings of the Board of Revenue, Madras, together with a copy of the tree tax rules lately issued in Mysore, are herewith ~~sent~~ forwarded for

No 102 & 17th February 1892.
200 & 12th May 1893.

for perusal of the Chief Courts and obliging return.

I have &c

for Secretary

19/8/98

19/8

Ex·166.

(General Serial No. 30.)

REVENUE DEPARTMENT
Gl. No. 3,165
1898 13 1898
No.
NEW OFFICE

94

From The Registrar of the Chief Court of Mysore

To The Secretary to the Government of Mysore

Dated 8 September 1898

Despatched 11 September 1898

Received

General No. 2755 } 1898-99
No. 120

Enclosures No. 4

States that the proposes are no objection to Magistrates before whom offences against tapping of toddy palmyras may be brought, being instructed as proposed in para 2 of the draft cir. Memorandum suggests that Masters be also instructed to furnish copies of calendars or information of the convictions.

Rm (Mysore)
15.11.98

Submitted for orders. The Circular memo may therefore be approved.

Recommended to Secretary
22/11/98

Yes
22-11-98

Circular issued
23/11/98

Central Jail Press, Bangalore.—5-7-98.—3,221.

No 2755 / 20 4 enl

Bangalore 8th November 1898

From

The Registrar of the
Chief Court of Mysore

94

To The Secretary to the
Government of Mysore
General + Revenue Depts.

Sir,

In reply to your no. 1438/Ex 69 of the 23rd August last, forwarding copy of a letter from the Excise Commissioner and of a draft circular memorandum in regard to the procedure to be adopted in re: the illicit tapping of toddy yielding trees, I am directed to state that the Judges see no objection to magistrates before whom such offences may be brought, being instructed as proposed in para 2 of the memorandum. I am to suggest that magistrates be also instructed to furnish copies of calendars or information of the convictions.

The enclosures to your letter under reply are herewith returned.

I have the honor to be,
Sir,
your most obedient servant,
[signature]
Registrar

Nitu

No. 5098-105 / 243

Excise Commissioner's office
Bangalore the 16th/20 December 1897

Draft circular memorandum

The following instructions are issued in regard to the procedure to be adopted to deal with the toddy-yielding trees illicitly tapped:—

(1) If the magistrates before whom cases of illicit-tapping are brought up for trial, direct in their judgment under section 545 of the Code of Criminal Procedure that the whole or any part of the fine realized should be paid to the Excise Department as compensation on account of the trees illicitly tapped, such amount should be credited under "Excise Miscellaneous".

(2) The magistrates in whose courts offenders may be convicted for unlicensed or illicit tapping, will be so good as to furnish information of the trees proved to have been illicitly tapped, to the amildars concerned to enable them to collect the tree-tax due thereon. Such collections also should be credited under "Excise Miscellaneous". By this means the illicit tapper will be made to feel the serious consequences of illicit-tapping; for he has not only to pay the fine on the criminal side for his offence, but also to pay the tree-tax at the prescribed rate for the trees illicitly tapped. The tree-tax on illicitly tapped trees should also be credited under "Excise Miscellaneous".

(3) Such trees should not be marked unless they are duly applied for by the offenders.

(4) If a tree is illicitly tapped and the offender convicted and he does not then choose to apply for it but taps it again, he will rightly be arrested a second time and prosecuted. If he does apply, and there is no objection to the issue of a tapping license, the tree may be marked and dealt with in the usual course under the Tree-Tax Rules; provided that if the amount of tree-tax has already been fully collected, further demand therefor will be unnecessary.

J. M. Dunnicliff
Excise Commissioner

Board of Revenue (Separate Revenue) 17th February 1892, No: 1/2

Proceedings of the Board of Revenue.
(Separate Revenue)
C. S. Crole Esquire, C.S.

Read:- Again the following Proceedings of the Board of Revenue (Separate Revenue) dated 17th September 1891, No: 430:-

C. S. Crole Esquire, C.S.

Read:- the following Proceedings of the Deputy Commissioner of Salt and Abkari Revenue, Northern Division, dated 8th September 1891, No: 2700:-

Read:- the following letter from the Assistant Commissioner of Salt and Abkari Revenue, Masulipatam Sub-Division, dated 30th August 1891, No: 3368:-

I have the honor to bring to your notice that persons convicted of illicit tapping are made to pay, under section 19 of the Abkari Act, the tax on the trees so tapped in addition to the fines

imposed

imposed for the offence; I beg to know whether such trees should be marked and the tappers allowed to continue to draw toddy because of the collection.

2. Illicit tapping takes place generally about the end of the season, many of the trees illicitly tapped ceasing to yield by the time the cases are detected, but the tax on such trees is levied as soon as the cases are disposed of; it is doubted whether such trees should also be marked if the tappers do not apply. They do not care to make formal applications for such trees as have ceased to yield. Unless they are marked, there is the danger of the tapper being again arrested as happened in one or two instances. I think that in all cases in which the tree-tax has been levied in addition to the fines, the trees should be invariably marked, whether the

offenders

offenders have applied for them or not, a note being made of the fact in T.T. 12 and T.T. 8 registers.

The Assistant Commissioner's view is correct.

(Signed) J. H. Merriman
Deputy Commissioner

Resolution - dated 17th September 1891, No: 430.

The Board considers that trees should not be marked unless they are duly applied for.

2. If a tree is illicitly tapped and the offender convicted, and he does not then choose to apply for it but taps it again, he will rightly be arrested a second time.

3. If he does apply, and there is no objection to the issue of a license, the tree may be marked and the amount leviable under section 19 of

the

the Act, if already fully collected, will render further demand unnecessary.
(True copy and extract)

(Signed) W. S. Meyer
Acting Secretary

Read:- also the following letter from F. H. Hammett, Esquire, Officiating Collector of the Godavari District, to the Secretary to the Commissioner of Salt, Abkari and Separate Revenue, dated Cocanada, 8th February 1892, No: 86:—

The Inspector of Salt and Abkari Revenue, Pennigudum Circle, having been called upon to explain why he has not included in his J. J. Statement a sum of Rs3 collected as tree-tax by the second class Magistrate, Cocanada, in a case of illicit tapping notwithstanding intimation given him of it, replies that under the Board's Proceedings, No: 430, dated 17th September 1891, such collections

collections of tree-tax by magistrates cannot be shown in his account unless the offender, after conviction, got his trees marked on formal application. I request to be supplied with a copy of the Proceedings, which does not appear to have been received in this office.

2. Such sums are, I think, a proper item of tree-tax and should be shown in the tree-tax demand, Collection and balance statement. I have accordingly instructed taluk officers to give early intimation to Inspectors of the collection of tree-tax in magisterial cases to enable them to show such sums in their T.T.9 statements and secure correspondence between them and the taluk demand, Collection and balance statements. I beg to know whether I am right.

Resolution

Resolution - dated 17th February 1902.

The Board's Proceedings read above will be communicated to all Collectors for information and guidance. It will be observed therefrom that the tax collected on trees illicitly tapped does not become a demand unless and until a license is issued to the person convicted, upon his formal application and the amount will meanwhile have to be treated as "deposit." As collections under this head are not likely to be large in any district, and as the adjustment of petty deposits involves unnecessary labour, the Board thinks that such items may be finally credited in the accounts under Abkari Miscellaneous.

2. The instructions issued in paragraph 2 of the second paper read above should therefore be withdrawn.

(A true copy and Extract)

(Signed) W. O. Horne

Acting Secretary. Board

Board of Revenue (Separate Revenue), 12th May 1893, No: 24

Proceedings of the Board of Revenue.
(Separate Revenue)

Read:— again Proceedings of the Board of Revenue (Separate Revenue), dated 17th February 1892, No: 102.

Abstract— Issuing instructions for the credit in the accounts of sums collected under section 19 of the Abkari Act on trees illicitly tapped for toddy.

Read:— Again Proceedings of the Board of Revenue (Separate Revenue), dated 16th January 1893, No: 87.

Abstract:- Calling for report as to the collection of tree-tax from persons convicted of tapping trees without license.

Read— also the following papers:—

From the Collector of Arcot, North, dated 22nd Feb. 1893, No. 906
" " of " , South, " 14th April " " 1793
" " of Kanara South " 16th Feb. " " 645
" " of Chengalpet " 6th March " " 367

From

From the Collector of Coimbatore, dated 11th March 1893 No: 531

" " of Godaveri dated 16th Feb 93 No: 13

" " of Kistna, dated 13th March 93, No: 207

" " of Madura, dated 28th Feb. 93 No: 26

" " of Malabar, dated 18th March 93 No: 303-Gl-R.

" " of Nellore, dated 28th March 93, No: 704.

" " of Salem, dated 8th March 93 No: 681

" " of Tanjore, dated 4th April 93, No: 206

" " of Tinnavelly, dated 8th March 93, No: 141

" " of Trichinopoly, dated 20th March 93 No: 131-4

" " of Vizagapatam, dated 27th January 93, No: 210.

" Deputy Commissioner of Salt and Abkari Revenue, Central Division, dated 30th January 1893, No: 466.

Resolution — dated 12th May 1893, No: 200.

On receipt of a communication from the Deputy Commissioner, Southern division, requesting instructions whether the tree-tax collected from offenders convicted of tapping without license might not, with advantage, be shown in the Comparative statement forming an enclosure to the weekly T. T. diaries of

Assistant

Assistant Commissioners, the Board called upon the Collectors of tree-tapping districts to report whether in such cases the tax on the trees illicitly tapped is levied from the accused, apart from the fine inflicted on them for having committed an Abkari offence. The letters read above are replies to this reference.

2. The Collectors of Godavari, Kistna, Nellore and South Arcot report that in the portions of their districts where the T. T. System is in force, tax on the trees tapped without license is being levied in addition to the fines, while the Deputy Commissioner, Central Division, and the Collectors of other districts, except Madura and Trichinopoly state that the practice does not obtain in their districts. In portions of the two excepted districts it is reported that the tax is not collected; in the Madura

Head

Head Assistant's division, however, the Sub-Magistrates direct that a portion of the fines imposed be credited to the tax due on the trees clandestinely tapped. In the Vizagapatam district, into which the T.T System was introduced recently, no case of illicit manufacture of toddy appears to have been detected. The Collector of Tanjore doubts the legality of Magistrates' collecting the tax in addition to the fines imposed and considers that in cases brought before them they should inflict punishments adequate to meet the gravity of the offence, and that the tax should not be levied until a license is formally applied for. The Collector of Coimbatore reports that no steps have hitherto been taken by the Abkari officers of the district for the collection of the tapping fees.

3. It is clear from a perusal of the Collectors' reports that in most

districts

districts the provisions of paragraph 2. section 19 of the Abkari Act, which are obligatory and not permissive, have been ignored. In some of the districts the Sub-Magistrates collect the fees and in one division in a highly irregular manner by crediting a portion of the fines to the tax due. The Board, while observing that the procedure adopted in the several districts is divergent, would point out that it is no part of the duty of Sub-Magistrates or itinerent Abkari preventive officers to look after revenue collections. With a view, therefore, to secure uniformity, Collectors will be requested to instruct Subordinate Magistrates, in whose Courts offenders may be convicted for unlicensed tapping, to forward copies of calendars or other information of the cases to Tahsildars concerned, to enable them to collect the fees on the revenue side.

4.

4. The Deputy Commissioner, Southern Division, will be informed that the Board having decided in Board's Proceedings No: 102, dated 17th February 1892, that such collections should be credited to "Miscellaneous" and not to "Tree-tax" in the demand collection and balance statements, they need not be included in the T. T. 9A Statements or the enclosures to the T. T. diaries. Until the trees are actually applied for, Inspectors cannot be expected to have any official intimation of these collections and it would therefore be impracticable for them to embody the information in their diaries, even if it were necessary to do so.

5. Copy of Board's Proceedings, No: 102, dated 17th February 1892, will now be communicated to the Deputy Commissioners, Southern and Northern

Divisions

Divisions, and to all Assistant Commissioners and Inspectors of T. T. areas.

(A true Extract)

(Signed) L. M. Wynch
Acting Secretary

"Copy"
M Murray
Excise Commissioner
in Mysore

Letter No. 1114/56 dated 17th July 1898 from the Excise Commissioner in Mysore, to the Secretary to the Government of Mysore, General and Revenue Departments.

Sir,

In acknowledging the receipt of Government Proceedings No. 9017/Ex: 365 dated 22nd March 1898, I have the honor to forward herewith, copy of the Madras Revenue Board's Proceedings Nos. 102 dated 17th February 1892 and 200 dated 12th May 1893, containing instructions as to the course to be adopted in regard to the toddy-yielding trees discovered to have been illicitly tapped and to submit herewith for approval a revised circular memorandum prepared on the lines of the above Proceedings.

I have &c.

"Copy"

(sd) P. N. Purniya
Excise Commissioner
in Mysore.

For Secretary

Proposed the Govt of Madras

518. (95)

Read:-

Correspondence ending with Excise Commr's letter No: 1114/56 of 8th August 1898 submitting for the approval of Govt: the revised draft of a Circular Memorandum prepared on the lines of the instructions issued in Madras as to the course to be adopted in the case of Toddy-yielding trees discovered to have been illicitly tapped

Also, letter No: 2755/120 of 8th November 1898 from the Registrar of the Chief Court of Mysore stating that the Judges of the Chief Court have no objection to Magistrates, before whom offences of illicit tapping of Toddy-yielding trees may be brought being as proposed in para 2 of the aforesaid Memorandum instructed, to furnish information of the trees proved to have been illicitly tapped, and suggesting that Magistrates be also instructed to furnish copies

of calendar or information of the convictions.

Order thereon

3974-6 of 3.12.98.
8x. 185

The ~~Circular~~ Draft Circular Memorandum is approved accordingly slightly modified and ~~with a slight alteration as suggested in the letter of the Registrar read above~~ The Excise Court is requested to issue the Memorandum ~~with the letter~~ at an early date.

Secretary 30-11-98.

Printer

To 16/11/98

The Excise Commr in Regore with copy of memo.

" Comptroller.

" Registrar of the Chief Court for favor of communication to all magts in the State.

afterwards

READ—

Correspondence ending with the Excise Commissioner's letter No. 1114—56, dated 8th August 1898, submitting, for the approval of Government, revised draft of a Circular Memorandum, prepared on the lines of the instructions issued in Madras, as to the course to be adopted in the case of toddy-yielding trees discovered to have been illicitly tapped.

ALSO—

Letter No. 2755—120, dated 8th November 1898, from the Registrar of the Chief Court of Mysore, stating that the Judges of the Chief Court have no objection to Magistrates, before whom offences of illicit tapping of toddy-yielding trees may be brought, being instructed, as proposed in para 2 of the aforesaid Memorandum, to furnish information of the trees proved to have been illicitly tapped, and suggesting that Magistrates be also instructed to furnish copies of calendar or information of the convictions.

No. 3974-6—Ex. 185, DATED BANGALORE, 3RD DECEMBER 1898.

ORDER THEREON.—The draft Circular Memorandum is accordingly slightly modified and approved. The Excise Commissioner is requested to issue the Memorandum at an early date.

C. SREENIVASIENGAR,
Secy. to Govt., Gen. & Rev. Depts.

CIRCULAR MEMORANDUM.

The following instructions are issued in regard to the procedure to be adopted to deal with the toddy-yielding trees illicitly tapped :—

(1) If the Magistrates before whom cases of illicit tapping are brought up for trial, direct in their judgment, under Section 545 of the Code of Criminal Procedure, that the whole or any part of the fine realized should be paid to the Excise Department as compensation on account of the trees illicitly tapped, such amount should be credited under "Excise, Miscellaneous."

(2) The Magistrates in whose courts offenders may be convicted for unlicensed or illicit tapping, will be so good as to furnish copies of calendars or other information of such convictions to the Amildars concerned, to enable them to collect the tree-tax due on the trees proved to have been illicitly tapped. By this means, the illicit tapper will be made to feel the serious consequence of illicit tapping ; for he has not only to pay the fine on the criminal side for his offence, but also to pay the tree-tax at the prescribed rate for the trees illicitly tapped. The tree-tax collected on illicitly tapped trees should also be credited under "Excise, Miscellaneous."

(3) Such trees should not be marked, unless they are duly applied for by the offenders.

(4) If a tree is illicitly tapped and the offender convicted, and he does not then choose to apply for it, but taps it again, he will rightly be arrested a second time and prosecuted. If he does apply, and there is no objection to the issue of a tapping license, the tree may be marked and dealt with in the usual course under the Tree-Tax Rules ; provided that if the amount of tree-tax has already been fully collected, further demand therefor will be unnecessary.

To—The Excise Commissioner in Mysore.

The Comptroller, Mysore Government.

The Registrar of the Chief Court of Mysore, for favor of communication to all the Magistrates in the State.

Exd.—H. A. R.

1898-99

GOVERNMENT OF MYSORE

EXCISE

PROCEEDINGS

Dated 3rd December 1898

No. $\frac{3974\text{-}6}{\text{Ex. } 185}$

Approving of a draft Circular Memorandum containing instructions as to the course to be adopted in the case of toddy-yielding trees discovered to have been illicitly tapped.

MGCPC—27-12-98—200

519

Excise]

189

From The Excise Commissioner in Mysore

To

THE SECRETARY TO GOVT. OF MYSORE,

General and Revenue Depts.

Dated 27th August 1900.

Despatched 31

Received

General No. 1449

No. 68

Enclosure No. 2

In reply to

SUBJECT.

States he concurs with the Deputy Commissioner, Shemoga, that a Government rule of imperative force is necessary to enable the Amildars to collect tree-tax on the trees illicitly tapped, in cases in which the accused are convicted for illicit tapping, and accordingly submits a draft notification embodying the proposed rule for approval and publication in the Gazette

References
(to be entered only in the Dewan's Office.)

Rd 1.9.00 4.15 pm. 1/9/00

Submitted to Secretary 4/9/00.

No. 1469/68 Enc. 2

Excise Commissioner's office
Bangalore, dated 27th August 1900
31

From

The Excise Commissioner,
in Mysore.

To

The Secretary to the Government
of Mysore, General and Revenue Departments.

Sir,

In submitting herewith copy of a D. O. letter of the 14th instant, from the Deputy Commissioner, Shimoga District, with reference to Government Proceedings No: 3974-6/Ex:185, dated 3rd December 1898, approving with slight modifications of my circular memo. containing instructions as to the course to be adopted in the case of toddy-yielding trees discovered to have been illicitly tapped, I have the honor to state that I concur with the

the Deputy Commissioner that a Government rule of imperative force is necessary to enable the Amildars to collect tree-tax on the trees illicitly tapped, on receipt of copies of calendars from the Magistracy in cases in which the accused are convicted for unlicensed or illicit tapping. Accordingly I beg to submit herewith for approval and publication in the Gazette a draft notification embodying the proposed rule.

I have the honor to be,
Sir,
Your most obedient servant,
M Murray
Excise Commissioner
in Mysore.

Shimoga. 14th August 1900.

My Dear Mr. Ramaiya.

In the matter of a reference concerning the levy of tree-tax in cases where parties have been convicted by a magistrate, you refer me to the rules already in force. You say* that cl. 2 of your circular d. 3rd Decr 1898 requires the Amildars to collect the tree-tax. The words referred to are apparently "The magistrates . . . . to furnish copies of calendars . . . to the amildars concerned to enable them to collect the tree-taxes." I believe that it was intended to assume that the Amildar was to collect the tax; but a rule of imperative force cannot be laid down and is not usually laid down

* your No. 398/98 dated 20th/28th July 1900.

down in a more subordinate clause introduced for quite a different purpose and in a quite different context. Every person who has to apply a rule has the obligation to construe it properly; and the reason why I made the reference to you was only because I felt that I could not construe it as the Special Excise assistant Commissioner or perhaps the original intention of the rule required. In his long letter, the Excise assistant Commissioner has really not considered the matter raised by me, which after all turns more upon the interpretation of certain legal provisions than upon any technical or intricate details of the Department. I wish therefore that you could take the matter into

your

your reconsideration and see whether after all, the best course is not to leave the matter to be disposed of as I suggest in Para 7 of my letter, or whether an express rule may not be laid down by Government that in all such cases three-tax should also be levied in addition.

Trusting that this will find you doing well, I am

Yours very sincerely.

(Signed) H. H. Rangnekar

"Copy".

B. Nuccacch

Excise Commissioner,
in Mysore.

108 / 2

Draft Notification.

Under section 55 of the Excise act XXII of 1881, as amended by act VI of 1885, and introduced into Mysore by Regulation III of 1885, the Government of Mysore are pleased to make the following additions to the Toddy Rules published under Government Notification No. 11676-Ex.476, dated 14th June 1898, and added to, and amended by notification No. 8236-Ex.294, dated 19th May 1900:-

XIII. The magistrates in whose courts any persons may be convicted under section 35 of the Excise act for unlicensed or illicit tapping or illegal manufacture of toddy

Shall

shall furnish copies of Calendars or other information of such convictions to the Amildars of the Talukas concerned.

XIV. The Amildars on receipt of such Calendars or information, shall collect the tree-tax due on the toddy-yielding trees proved to have been illicitly tapped.

XV. The trees illicitly tapped shall not be marked unless they are duly applied for by the offenders. If they apply for them, and there is no objection to the issue of a tapping license, the trees may be marked and dealt with in the usual course under the Tree-tax Rules, provided that if the amount

of-

of tree-tax has already been collected, further demand therefor shall not be made by the Amildar.

B. a.

M Murray

Excise Commissioner, in Mysore. Secretary.

Extract of section 35 of the Excise Act

35 Whoever in contravention of section five constructs, works or possesses a distillery, still or brewery, or makes fermented liquor, shall be punished with imprisonment for a term which may extend to four months or with fine which may extend to one thousand rupees or with both;

for illegally manufacturing spirit or liquor.

and all spirit and liquor made in contravention of section 5, and all materials and implements collected for the purpose of such manufacture, shall be liable to confiscation.

Proc. of the Govt. of Mysore

5110

Read:-

Letter No: 1449/68 dt 27th August 1900 from the Excise Commr in Mysore stating that a Govt. Rule of imperative force is necessary to enable the Amildars to collect tree tax on the tree, illicitly tapped, in cases in which the accused are convicted for illicit tapping and submitting a draft Notification embodying the proposed rule for approval and publication

(Print in Extenso)

2981-70 / Ex 3.16-96 dt 9/10/00

Order thereon No:

The draft notification submitted with the above is approved & forwarded to the Compiler for publication in three successive issues of the Gazette

6/10/00

For Secretary

To The Excise Commr in Mysore
" Comptroller, Mysore Govt.
Deputy Commrs of Districts

[Here print Notification]

No: